

§ 40.61a

processed tobacco may be sufficient to qualify as a manufacturing activity.

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29409, June 22, 2009, § 40.61 was revised, effective June 22, 2009 through June 22, 2012.

§ 40.61a Transitional rule.

Any person who:

(a) On August 5, 1997, was engaged in business as a manufacturer of roll-your-own tobacco, and

(b) Before January 1, 2000, submits an application, as provided in this part, to engage in such business, may, continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of the Internal Revenue Code of 1986 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture roll-your-own tobacco under such chapter 52.

[T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

§ 40.62 Application for permit.

Every person, before commencing business as a manufacturer of tobacco products as defined in § 40.11, shall make application for, and obtain, the permit provided in § 40.75, covering operations at each proposed factory. Such application shall be made on Form 2093, in duplicate, to the appropriate TTB officer. All documents required under this part to be furnished with such application shall be made a part thereof. Where the applicant for a permit under this section holds a permit or permits authorizing the production of any tobacco products at premises to be covered by the permit applied for, the applicant shall surrender such permit or permits for cancellation, upon the issuance of the permit applied for.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 40.63 Corporate documents.

Every corporation, before commencing business as a manufacturer of tobacco products, shall furnish with its application for permit, required by § 40.62, a true copy of the corporate charter or a certificate of corporate existence or incorporation executed by the appropriate officer of the State in which incorporated. The corporation

27 CFR Ch. I (4-1-10 Edition)

shall likewise furnish duly authenticated extracts of the stockholders' meetings, bylaws, or directors' meetings, listing the offices the incumbents of which are authorized to sign documents or otherwise act in behalf of the corporation in matters relating to 26 U.S.C. chapter 52, and regulations issued thereunder. The corporation shall also furnish evidence, in duplicate, of the identity of the officers and directors and each person who holds more than ten percent of the stock of such corporation. Where any of the information required by this section has previously been filed with the appropriate TTB officer and such information is currently complete and accurate, a written statement to that effect, in duplicate, will be sufficient for the purpose of this section.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1421, as amended (26 U.S.C. 5712))

[T.D. 6840, 30 FR 9310, July 27, 1965. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55854, Sept. 28, 1979]

§ 40.64 Articles of partnership or association.

Every partnership or association, before commencing business as a manufacturer of tobacco products, shall furnish with its application for permit, required by § 40.62, a true copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality. Where a partnership or association has previously filed such documents with the appropriate TTB officer and such documents are currently complete and accurate, a written statement, in duplicate, to that effect by the partnership or association will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 40.65 Trade name certificate.

Every person, before commencing business under a trade name as a manufacturer of tobacco products, shall furnish with his application for permit, required by § 40.62, a true copy of the certificate or other document, if any, issued by a State, county, or municipal

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 40.69

authority in connection with the transaction of business under such trade name. If no such certificate or other document is so required, a written statement, in duplicate, to that effect by such person will be sufficient for the purpose of this section.

(72 Stat. 1421; 26 U.S.C. 5712)

§ 40.66 Bond.

Every person, before commencing business as a manufacturer of tobacco products, shall file, in connection with his application for permit, a bond on Form 3070, in duplicate, in accordance with the applicable provisions of subpart G of this part, conditioned upon compliance with the provisions of chapter 52, I.R.C., and regulations thereunder, including, but not limited to, the timely payment of taxes imposed by such chapter and penalties and interest in connection therewith for which he may become liable to the United States: *Provided*, That any person who, on the effective date of this part, October 1, 1961, has on file a valid and adequate bond, Form 2100, "Bond—Manufacturer of Cigars and Cigarettes," may continue, under such bond, the operations with respect to the permit to which that bond relates, in accordance with the provisions of this part.

(72 Stat. 1421, as amended; 26 U.S.C. 5711)

[T.D. 6871, 31 FR 33, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 40.67 Blanket bond.

Where a manufacturer of tobacco products operates more than one factory in the same region he may, in lieu of filing separate bonds, file a blanket bond on Form 3070, in duplicate, in accordance with the provisions of § 40.134, for any or all of the factories in the same region. The total amount of any blanket bond given under this section shall be available for the satisfaction of any liability incurred at any factory covered by the bond.

(72 Stat. 1421; 26 U.S.C. 5711)

§ 40.68 Power of attorney.

If the application for permit or any report, return, notice, schedule, or other document required to be exe-

cuted is to be signed by an individual (including one of the partners for a partnership or one of the members of an association) as an attorney in fact for any person, or if an individual is to otherwise officially represent such person, power of attorney on Form 1534 shall be furnished to the appropriate TTB officer. (For power of attorney in connection with conference and practice requirements see subpart E, part 601 of this chapter.) Such power of attorney is not required for persons whose authority is furnished with the corporate documents as required by § 40.63. Form 1534 does not have to be filed again with a appropriate TTB officer where such form has previously been submitted to that appropriate TTB officer and is still in effect.

[T.D. 6840, 30 FR 9310, July 27, 1965. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 40.69 Factory premises.

The premises to be used by a manufacturer of tobacco products as his factory may consist of more than one building, or portions of buildings, which need not be contiguous but must be located in the same city, town, or village: Except that, where the appropriate TTB officer determines that a building or portion of a building which is not within the city, town, or village, is so conveniently and closely situated to the general factory premises as to present no jeopardy to the revenue and as to offer no hindrance to the administration of this part, he may authorize the inclusion of such building or portion of building as part of the factory. The buildings or portions of buildings shall be described in the application for permit and the bond by number, street, and city, town, or village, and State. If any of the following conditions exist a diagram shall also be furnished, in duplicate, showing the information indicated:

(a) Where the factory is in more than one building, and each building is not identifiable by a separate street address—identify each building by a letter, number, or similar designation;

(b) Where the factory consists of a portion of a building or where portions of buildings are part of the factory—show the particular floor or floors, or room or rooms, comprising the factory;